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REC'D AUG 23 1985

Including the former firm of
 Stolpestad, Brown & Smith
 Professional Association
 August 27, 1985

Ms. Becky A. Comstock
 Dorsey & Whitney
 2200 First Bank Place East
 Minneapolis, Minnesota 55402

Re: Hopkins/Reilly

Dear Ms. Comstock:

As agreed among the parties at the August 6 meeting with Judge Winton, I am writing to express the concerns that the City of Hopkins has with the proposed Consent Decree and the Remedial Action Plan. The primary concerns are:

1. There is no provision to indemnify Hopkins from actions which may be brought against it by third parties;
2. There is insufficient protection for Hopkins should the monitored Hopkins wells (3 and 6) or any other Hopkins well be found to exceed the drinking water criterion established in the Remedial Action Plan; and
3. There is insufficient (no) compensation to Hopkins for the considerable damages and expenses it has suffered in the past and will incur in the future.

Each of these points is addressed separately below.

DOHERTY, RUMBLE & BUTLER
PROFESSIONAL ASSOCIATION

Ms. Becky A. Comstock
August 27, 1985
Page 2

INDEMNITY

I simply echo the points raised on behalf of Oak Park, Rustic Oaks, and Phillips Investment. The indemnification language agreed as to those parties should include Hopkins.

PROTECTION

Section 12 of the Remedial Action Plan does not provide Hopkins with sufficient protection should the measures proposed by the Consent Decree prove ineffective. Under Section 12, Hopkins has no input into the contingency action to be taken if monitoring of Hopkins Wells 3 and 6 reveals the presence of contaminants or contaminants migrate to unmonitored Hopkins wells.

We were told on August 6 that it was not the intent of the major parties to hamstring Hopkins in dealing with such contingencies. If that is so, there should be no objection to adding a section to the Remedial Action Plan following Section 12.2.3:

12.2.4 Hopkins. Nothing in this Remedial Action Plan or in the Consent Decree shall require Hopkins to approve or permit any remedial action proposed pursuant to Section 12.2.3 unless Hopkins concurs that the proposed remedial action is necessary and appropriate and determines that the action is permitted by law.

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Hm*

To provide Hopkins with the ability to deal with the presently unanticipated migrations of contaminants or the discovery of contaminants not presently known, the language in subparagraphs 5, 6, and 8 of Section U of the Consent Decree should be amended to confer upon Hopkins the same rights conferred upon the United States and the State. The amendment to subparagraphs 5 and 6 is:

Nothing in this Consent Decree, including Part U.3, shall be construed to limit the authority of the United States, Hopkins, or the State to undertake any action against any party

o.k.

DOHERTY, RUMBLE & BUTLER
PROFESSIONAL ASSOCIATION

Ms. Becky A. Comstock
August 27, 1985
Page 3

The amendment to subparagraph 8 is:

In the event that any action permitted under
Part U.5 or U.6 is taken by the United States,
Hopkins, or the State against any party

COMPENSATION

The damages and expenses incurred by Hopkins as a result of the contamination of its water supply, while small when compared to those incurred by the major parties, are very significant to Hopkins. Yet, Section R of the Consent Decree provides that Hopkins absorb every penny of its damages, costs, and expenses and Section X prevents an application for relief under CERCLA or MERLA.

This is unacceptable. Hopkins is willing to absorb some of its costs in the spirit of cooperation necessary to bring this litigation to a close. It is not, however, willing to forego compensation for all of the damages which resulted from a contamination which it played no part in causing. I suggest the following subparagraph 3 to Section R:

3. To Hopkins the sum of Thirty Thousand and
No/100 (\$30,000.00) Dollars which shall be paid
within 30 days of the Effective Date.

I am ready to discuss these necessary changes at any time.

Very truly yours,



Gary Hansen

GH/kj

cc: Mr. Craig Rapp
All Counsel
The Honorable Crane Winton